

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLIO
STATE OF NEW MEXICO**

Kendra Goers

CHARLOTTE RODE

Plaintiff,

vs.

NEW MEXICO RACING COMMISSION,
EXPO NEW MEXICO and ROSEMARIE
LEEDER and KAREN GILES, as Custodians
of Records

Defendants.

D-202-CV-2013-00603
Case No. _____

**VERIFIED COMPLAINT FOR PRODUCTION OF PUBLIC RECORDS,
DECLARATORY AND INJUNCTIVE RELIEF AND MANDAMUS**

For her Verified Complaint, Plaintiff Charlotte Rode, ("Commissioner Rode") by and through her counsel of record, Nicholas Koluncich of The Law Offices of Nicholas Koluncich III, LLC, hereby states:

NATURE OF THE CASE

1. This action is brought pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1 *et seq.*, ("IPRA") seeking to compel the production of public records maintained by the New Mexico Racing Commission and the Expo New Mexico aka the "New Mexico State Fair" ("Defendants"). Commissioner Rode's IPRA requests seek information about the facts and circumstances surrounding the award of a lucrative lease for the racetrack and casino at the Expo New Mexico facility to certain contributors to Governor Martinez and her PAC pursuant to a questionable bidding evaluation process. (Exhibit 1).

2. Defendants have consistently refused to honor Commissioner Rode IPRA requests despite the fact that she is a member of the State Fair Commission charged with oversight of Expo New Mexico.

PARTIES, JURISDICTION AND VENUE

3. Plaintiff Charlotte Rode (“Commissioner Rode”) is a New Mexico State Fair Commissioner. Commissioner Rode is a resident and citizen of the State of New Mexico.

4. Defendant “New Mexico Racing Commission” (“NMRC”) is a governmental agency, created pursuant to Sections 60-1A-1 through 60-1A-30, NMSA 1978, “to regulate horse racing.” The NMRC is located and maintains its offices and principle place of business at 4900 Alameda NE, Albuquerque, NM 87113. The NMRC is responsible for the failure and refusal to furnish the documents Commissioner Rode requested.

5. Defendant Rosemarie Leeder is the records custodian for the NMRC. In the course of her duties, she was responsible for the denials of the records requests specified herein.

6. Defendant “Expo New Mexico” *aka* the “New Mexico State Fair” is an Enterprise Agency of the State of New Mexico. Expo New Mexico is located and maintains its offices and principle place of business at 300 San Pedro NE, Albuquerque, NM 87108. Expo New Mexico is responsible for the failure and refusal to furnish the documents Commissioner Rode requested.

7. Karin Giles is the records custodian for Expo New Mexico. In the course of her duties, she was responsible for the denials of the records requests specified herein.

8. Jurisdiction and venue are proper pursuant to the Inspection of Public Records Act, NMSA 1978, Section 14-2-1 to 12 and the venue statute, NMSA 1978, Section 38-3-1 (G)(1988).

FACTUAL ALLEGATIONS

Commissioner Rode Made Multiple IPRA Requests Which Were Not Honored

9. No reason needs to be stated for this or any an IPRA request. By way of background, however, Commissioner Rode attempted to obtain and read various documents relating to Expo New Mexico operations. Commissioner Rode was thwarted in her efforts by Defendants' refusal to furnish certain important documents despite her multiple requests. Ultimately, Commissioner Rode resorted to IPRA, but was still been denied the documents demanded.

10. Commissioner Rode's efforts spanned months and sought several key documents. In an effort to conserve litigation and judicial resources, however, Commissioner Rode will forbear on enforcement of some of her IPRA requests. Here, Commissioner Rode seeks an order that Defendants produce only three discrete document sets:

"A copy of both responses to the RFP, including the best and final," requested September 23, 2011; (Exhibit 2)

"All documents related to the response to RFP by both parties, their best and final and the evaluation committees questions and findings", requested November 17, 2011 (Exhibit 3); and

the non-disclosure/confidentiality agreement Commissioner Rode was forced to enter into, which she requested in October/November of 2012.

Requests for Responses to Requests for Proposal

11. Commissioner Rode made multiple requests for vital documents associated with the "award" of the bid to the Governor's campaign contributors. Commissioner Rode was furnished with a large number of unresponsive documents, with the important response to request for proposal documents missing. When she did not receive the needed documents as a sitting Commissioner, she had to resort to IPRA. As there was no known records custodian, as is required under IPRA, Commissioner Rode sent her requests Although there were actually

multiple oral and written requests, Commissioner Rode never received copies of the responses to request for proposals.

12. Upon information and belief, Commissioner Rode's IPRA requests were never directed to the correct custodian nor did anyone endeavor to obtain the documents.

13. On September 23, 2012, Dan Mourning, the governors' appointed General Manager of Expo New Mexico, stated that "you bet" the bid records would be provided. In fact, it was agreed with the New Mexico Attorney General's office that this information would be produced. The documents were not provided. Thus, the documents must be produced here pursuant to judicial order.

14. No response or explanation of the refusal to furnish copies of these documents was furnished to Commissioner Rode in violation of IPRA.

Request for the Non-Disclosure Agreement

15. On or about October/November, 2012, Commissioner Rode requested from Karen Giles, the nominated records custodian for Expo New Mexico, a copy of the non-disclosure agreement/confidentiality agreement that she executed months earlier.

16. Defendants never produced the non-disclosure agreement in violation of IPRA.

THE INSPECTION OF PUBLIC RECORDS ACT

17. NMSA 1978, § 14-2-6(E) (1993) broadly defines the records to which the public is entitled to access: "all documents, papers, letters, books . . . and other materials . . . that are used, created, received, maintained or held by or on behalf of any public body and relate to public business"

Further, it is the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is further the intent of the legislature,

and is declared to be public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

NMSA 1978, § 14-2-5 (1993).

18. The IPRA provides a specific procedure for a custodian of public records to follow upon the receipt of a written request to inspect public records:

A custodian receiving a written request shall permit the inspection immediately or as soon as practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request.

NMSA 1978, § 14-2-8 (1993).

19. The IPRA requires a custodian of records who denies a written request to provide the requester with a written explanation of denial. The written explanation must provide the reason for the denial and also describe the records sought, set forth the names and titles or positions of each person responsible for the denial and be delivered within 15 days after the request is received. *See* NMSA 1978, § 14-2-11(B) (1993).

20. Having utterly failed to comply with the law with respect to Commissioner Rode's multiple IPRA requests, Defendants must be compelled do so now pursuant to judicial order.

COUNT ONE

Violations of the Inspection of Public Records Act

21. Plaintiffs incorporate by reference the foregoing allegations.

22. Defendants have violated the IPRA in the following ways:

a. Defendants failed to produce the documents requested by the Plaintiff and as required by IPRA;

b. Any belated written denial of Plaintiff's requests would be untimely, in violation of Section 14-2-11(B), which required the Defendants to act within 15 days either to produce the requested documents or to provide the requester with a written explanation of the denial, including a description of the records sought, the names and titles or position of each person responsible for the denial, and the reason for the denial;

c. Denials were also untimely for failing to provide an initial response to the requests within three business days of receiving them, as required by Section 14-2-8;

d. Defendants never responded to Plaintiff's request for her confidentiality/no disclosure agreement in violation of the IPRA. Not only do these constitute failures to provide written denials under Section 14-2-11, they violate the requirement of Section 14-2-8 mandating a response;

e. Defendants at no time asserted that any of the requests were excessively burdensome or broad; and

f. Defendants have failed to offer any valid grounds under Section 14-2-1 for refusing to produce the records requested by the Plaintiff as required by the IPRA.

23. The documents the Plaintiff requested are not subject to any of the exceptions enumerated in Section 14-2-1. Therefore, the Defendants should and must comply with the Plaintiff's request to provide documents without redaction.

24. Plaintiff is entitled to recover damages, at up to \$100 per day per violation, with three violations at issue here.

COUNT TWO

Declaratory Relief

25. Plaintiff incorporates by reference the foregoing allegations.

26. There exists an actual controversy between the Plaintiff and Defendants as to whether the Defendants' conduct, as alleged above, constitutes violations of the IPRA and whether the documents requested by the plaintiffs constitute public records that Defendants are required to disclose.

27. Plaintiff is entitled to declaratory relief that defendants have violated the IPRA, and that the documents requested by Plaintiffs are public records under IPRA.

COUNT THREE

Injunctive Relief and Mandamus

28. Plaintiff incorporates by reference the foregoing allegations.

29. Pursuant to NMSA 1978, Section 14-2-12(B) (1993), the Plaintiff is entitled to a writ of mandamus or injunction ordering the Defendants to produce unredacted copies of all relevant documents in the Defendants' possession.

30. Plaintiff is entitled to a temporary restraining order and both preliminary and permanent injunctive relief enjoining Defendants from withholding the requested records from the Plaintiff.

31. Due to the Defendants' failures to provide timely responses, Plaintiff is entitled to damages pursuant to § 14-2-11(C).

32. Plaintiff is entitled to recover her costs and attorney's fees in pursuing this action pursuant to Section 14-2-11(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that:

- A. the Court declare that the records sought by the Plaintiff are public records and documents and are subject to disclosure; and
- B. the Court issue a writ of mandamus or injunction ordering the Defendants to produce the records and information requested without further delay, and to produce all similar such documents in the future and to adopt policies and procedures sufficient to correct the policies and practices that have resulted in the improper denials in this case;
- C. for damages allowed under New Mexico law, specifically, but not limited to, damages permitted by § 14-2-11(C); and
- D. the Court enter an order for such other and further relief as the Court deems just and proper, including but not limited to costs and reasonable attorney's fees.

Respectfully Submitted,

DATED: January 14, 2013


ELECTRONICALLY EXECUTED 1-14-12 AT
2:40PM NICHOLAS KOLUNCICH III

LAW OFFICES OF NICHOLAS KOLUNCICH III,
LLC
6501 Americas Parkway NE
One Park Square – Suite 820
Albuquerque, NM 87107-5375
Telephone: (505) 881-2228
Fax (505) 881-4288 (fax)

Attorney for Plaintiff

EXHIBIT 1

¹_a **abqjournal.com** <http://www.abqjournal.com/main/2011/10/12/news/expo-casino-selection-rushed.html>

Expo Casino Selection Rushed?

At least two New Mexico State Fair commissioners are questioning the process that will determine whether the Downs at Albuquerque or Laguna Development Corp. will be allowed to build a multimillion-dollar casino at Expo New Mexico and operate it for the next 25 years.

“The process that was used, we think, was inappropriate,” the commission’s newest member, Charlotte Rode, said at a recent public forum held by area neighborhood associations.

“We have concerns, and we have a lot of questions,” she said.

Specifically, Rode and Commissioner Benny Roybal criticized the fact they will not get to review the proposals submitted, but rather will be faced with an up or down vote on a contract already negotiated with Expo staff. They also said potential bidders weren’t given enough time to submit proposals.

Rode said Interim General Manager Dan Mourning and attorney Mark Shoesmith have been negotiating a lease with one of those entities since Sept. 25. Mourning has declined to say which, but the Journal has learned that the talks have been with the Downs at Albuquerque.



The Expo New Mexico Downs grandstand in 2008. The state is considering two proposals for a new casino at the State Fairgrounds in Albuquerque.

Other commissioners, including Chairman David “Hossie” Sanchez, say they’re comfortable with the process.

“It’s my understanding that it’s going through normal procedures of state procurement, and when they (Expo officials) get through with it we’ll look at it,” said Kenneth “Twister” Smith of Caballo, another newcomer to the seven-member, governor-appointed commission.

On July 24, Expo New Mexico issued a 100-page request for proposals for parties interested in leasing 93 acres at the fairgrounds for 25 years. It gave responders until Aug. 25 to submit detailed proposals.

Two companies responded: The Downs at Albuquerque, which has held the lease since 1985;

and Laguna Development Corp., which operates Route 66 and Dancing Eagle casinos west of Albuquerque for Laguna Pueblo.

Both propose a new casino. The Downs wants to build a \$20 million, 52,000-square-foot casino about 550 feet north of Central, and about 650 feet west of Louisiana – a plan first proposed by majority owner Paul Blanchard in 2004 – and to pay Expo \$2 million a year in lease payments.

Laguna Development hopes to build a \$30 million, 36,000-square-foot casino at the south end of the Downs' existing grandstands. It would pay Expo \$2 million in its first year of operation – the same base rate the Downs has paid for years – and \$2.5 million the second year. From then on, it would pay Expo \$3 million annually.

Gov. Susana Martinez appointed three people to evaluate the confidential proposals and make a recommendation to Mourning, a Martinez appointee, and Shoesmith. The three appointees are Chuck Gara, director of the Property Control Division of the state General Services Department; John A. Garcia, director of the city of Albuquerque's Economic Development Department; and Garrett Hennessy, former intergovernmental affairs liaison for Mayor Richard Berry.

Once a contract is hammered out, it will be presented to the State Fair Commission for a vote.

Rode and Roybal said they're uncomfortable with that process.

"We (commissioners) won't be seeing the responses to the RFP," Rode said. "We won't be seeing the best-and-final offers. We will only be seeing the lease, and be asked to vote on it."

Rode and Roybal, an Española contractor who has been on the commission since January 2007, also said 31 days to respond to such a detailed RFP was insufficient. Rode said she has spoken with other potential bidders who said they didn't have enough time to respond. She pointed out that when the New Mexico Racing Commission solicited bids to build and operate the state's sixth racino, the process took three years – and is still incomplete.

Roybal agreed and said he wished the commission had been involved in developing the RFP and evaluating responses.

"When you don't have much input and then you're expected to approve it, it's difficult," he said.

"We're not a rubber stamp," Rode said. "None of us on the commission want to be, nor will be, used as a rubber stamp."

Besides Chairman Sanchez, three other commissioners – Smith, Ruth Bitsui of Corrales and

Larry Kennedy of Albuquerque – said they had no specific concerns with the process.

Commissioner Kenneth “Buster” Goff, a Hobbs-area farmer and rancher, did not return phone calls seeking comment.

As a state enterprise fund, Expo must pay its own way – a task virtually impossible without the lease payments on the racino property. Though the Legislature does not fund Expo, it provides capital outlay money to maintain and improve the facilities. That funding, however, has fallen far short of the 75-year-old fairgrounds’ needs.

At the commission’s Sept. 1 meeting, Expo director of administration Agnes Maldonado said the fairgrounds’ 2010 deficit was \$1.9 million, and this year’s deficit is about \$2 million.
— This article appeared on page A1 of the Albuquerque Journal

Reprint story



-- Email the reporter at cbrunt@abqjournal.com. Call the reporter at 505-823-3882

UPDATED: State Board of Finance OKs New Fairgrounds Casino Lease

SANTA FE — A state board led by Republican Gov. Susana Martinez approved a new 25-year lease Tuesday with the Downs at Albuquerque that will allow the construction of a larger casino at the state fairgrounds.

The state Board of Finance unanimously approved the lease deal to let the Downs continue to operate a horse racing track at the fairgrounds in Albuquerque and build a new casino, which is estimated to cost \$20 million and will have twice as many slot machines as a current establishment.

Martinez, who serves as board president and appoints a majority of its members, voted for the lease, as did Lt. Gov. John Sanchez.

Martinez's political committees have received at least \$75,000 in contributions, including \$5,000 to the governor's PAC in July, from individuals connected to the Downs and another New Mexico racetrack in which two Downs owners have an interest, according to state campaign finance records.

"The governor is confident that the state fair received the best deal as the result of a competitive bid process that ensured no one received preferential treatment," Greg Blair, a spokesman for Martinez, said in a statement.

The Downs has leased fairgrounds property since 1985. It was one of two companies that responded to a request for lease proposals from the fair, which is known as Expo New Mexico.

Dan Mourning, the fair's general manager, told board members the lease was a good deal because it provided more money to the fair in exchange for letting the Downs use a smaller parcel of land.

The current lease, which expires next month, provides for rent of \$2 million a year. The Downs will pay \$2 million in 2012 and 2013 under the new lease and then rent will increase to \$2.75 million. In addition, the Downs will pay a share of its gambling revenues to the state fair, which doesn't happen currently.

The track and casino's current lease provides at least one-fourth of the revenue that pays for fair operations, and Mourning said it would be "virtually impossible" to continue the fair without

money from a new lease.

At the end of the 25-year lease, the fair will own the new casino building.

Under the new lease, the Downs will be responsible for renovating the fairgrounds grandstand, and building a new entrance to the fair and new offices for fairgrounds maintenance operations, including underground gasoline storage tanks. The Downs also will start paying for utilities of the leased facilities, saving the fair about \$300,000 to \$500,000 a year, according to Mourning.

The State Fair Commission approved the new lease last month, but critics say the proposal was rushed through.

The fair requested lease proposals in July and gave companies 30 days to respond, which board members were told is about the average time for state procurement deals.

Three men own the Downs — William Windham of Bossier City, La.; John S. Turner of Shreveport, La.; and Paul Blanchard of Albuquerque, who is a close friend and political fundraiser for former Democratic Gov. Bill Richardson.

As part of the board's vetting process, the owners were asked to submit sworn statements indicating whether they have been the subject of any federal or state investigation and testified or been subpoenaed by a grand jury.

Blanchard said in his affidavit that he has agreed to meet with federal law enforcement officials as part of an unspecified investigation, but "I do not believe I have any relevant information." The affidavit included an email from a federal prosecutor saying Blanchard is considered a witness but not an investigation target.

Martinez told board members said she believed it was an ongoing federal grand jury investigation of Richardson. The former governor is being investigated for possible campaign finance violations for raising money while he was a presidential candidate in 2007 for a settlement with a woman with whom he allegedly had an affair, according to published reports.

To alleviate possible ethical concerns, Blanchard has agreed to put his Downs ownership shares in escrow and not participate in the management of the track and casino, said Downs lawyer Pat Rogers. Blanchard will forfeit his ownership shares if he later becomes the subject of any state or federal investigation, is indicted or pleads guilty, or becomes a witness who testifies in exchange for immunity from prosecution, according to an agreement among the Downs owners.

Dec. 20, 2011 3:40 p.m.

By Barry Massey / The Associated Press

SANTA FE — Republican Gov. Susana Martinez and a state board approved a new 25-year lease Tuesday with the Downs at Albuquerque that will allow the construction of a larger casino at the state fairgrounds.

The state Board of Finance unanimously approved the lease deal to let the Downs continue to operate a horse racing track at the fairgrounds in Albuquerque and build a new casino, which is estimated to cost \$20 million and will have more than twice as many slot machines as a current casino.

Martinez, who serves as board president and appoints a majority of its members, voted for the lease as did Lt. Gov. John Sanchez, her running mate during last year's campaign.

The Downs has leased fairgrounds property since 1985. It was one of two companies that responded to a request for lease proposals from the fair, which is known as Expo New Mexico.

Dan Mourning, the fair's general manager, told board member the lease was a good deal financially for the state, providing more money to the fair in exchange for letting the Downs use a smaller parcel of land.

The current lease, which expires next month, provides for rent of \$2 million a year. The Downs will pay \$2 million in 2012 and 2013 under the new lease and then rent will increase to \$2.75 million. In addition, the Downs will pay a share of its gambling revenues to the state fair, which doesn't happen currently.

The track and casino's current lease provides at least a fourth of the revenue that pays for fair operations, and Mourning said it would be "virtually impossible" to continue the fair without money from a new lease.

At the end of the 25-year lease, the fair will own the new casino building.

Under the new lease, the Downs will be responsible for renovating the fairgrounds grandstand, build a new entrance to the fair and new offices for fairgrounds maintenance operations, including underground gasoline storage tanks. The Downs also will start paying for utilities of the leased facilities, saving the fair about \$300,000 to \$500,000 a year, according to Mourning.

The State Fair Commission approved the new lease last month but critics say the proposal was rushed through.

The fair requested lease proposals in July and gave companies 30 days to respond, which board members were told is about the average time for state procurement deals.

Dec. 20, 2011 2:20 p.m.

By Barry Massey / The Associated Press

SANTA FE — A state board has approved a new 25-year lease with the Downs at Albuquerque allowing the construction of a larger casino at the state fairgrounds.

The state Board of Finance unanimously approved the lease deal on Tuesday that provides for the Downs to continue operating a horse racing track at the fairgrounds and build a new casino estimated to cost \$20 million.

Gov. Susana Martinez voted for the lease.

The Downs has leased fairgrounds property since 1985. It was one of two companies that responded to a request for lease proposals from the fair, which is known as Expo New Mexico.

The fair's general manager told the board the lease is a good deal for the state, providing more money for letting the Downs use a smaller parcel of land.

Dec. 20, 2011 5:57 a.m. — Board To Review Fairgrounds Casino Lease

By The Associated Press

SANTA FE — A state board plans to consider a new 25-year lease with the Downs at Albuquerque that will allow the construction of a larger casino at the state fairgrounds.

The state Board of Finance is scheduled to meet today and is being asked to approve the lease for the horse racing track and a proposed \$20 million casino.

Gov. Susana Martinez serves as the board president.

The State Fair Commission approved the new lease last month but critics say the proposal was rushed through.

The Downs has leased fairgrounds property since 1985. It was one of two companies that responded to a request for lease proposals from the financially troubled state fair, which is known as Expo New Mexico.

The Downs' current lease expires next month.

EXHIBIT 2

Pat

From: Charlotte Rode [coachrode@comcast.net]
Sent: Monday, October 15, 2012 9:45 PM
To: pat@workspacedynamics.com
Subject: FW: request

From: Mourning, Dan, EXPO [mailto:Dan.Mourning@state.nm.us]
Sent: Friday, September 23, 2011 8:48 AM
To: 'coachrode@comcast.net'
Subject: Re: request

You bet! We are kind of under the gun but will get numbers ASAP. Call and ill fill you in on capital bill!!!

Thanks Charlotte!
Dan

From: Charlotte Rode [mailto:coachrode@comcast.net]
Sent: Friday, September 23, 2011 08:44 AM
To: Mourning, Dan, EXPO
Subject: RE: request

Great – Thank you

From: Mourning, Dan, EXPO [mailto:Dan.Mourning@state.nm.us]
Sent: Friday, September 23, 2011 8:05 AM
To: Charlotte Rode
Subject: FW: request

FYI. Spoke to Mark this morning.

Thank you,

Dan Mourning

Deputy Manager

Office:505.222.9739, Cell:505.2383478

Dan.Mourning@state.nm.us

Expo New Mexico Home of the State Fair



Susana Martinez
Governor

From: Charlotte Rode [mailto:coachrode@comcast.net]
Sent: Friday, September 23, 2011 6:45 AM
To: Mourning, Dan, EXPO

Cc: Benny Roybal; Buster Goff; Ruth Bitsui; Twister Smith
Subject: request

Hi Dan,

I'd like to officially request a few things that you and I have discussed previously. I'm not asking that they be provided while the Fair is running but I would like them before we're expected to vote on the racino lease.

- 1) Net revenue figures for the Downs for the past 3 years (2008-2010) – please include the following
 - a. Gross rent actually received in cash or check payments
 - b. Utilities paid by Expo
 - c. Capital improvements made by Expo
 - d. Repairs paid for by Expo
 - e. Trade out accepted in lieu of rent
 - f. Manpower paid for by Expo working on Down's property
 - g. Equipment owned by Expo used in the maintenance, repairs or operation of Downs property
 - h. Any other expense Expo incurred on behalf of the Downs or its affiliates
- 2) Accounts receivables outstanding from the Downs (current and past due)
- 3) An accounting of racing revenues that were paid by the Downs to Expo for the 17 day racing period during the fair. Please include figures from 2008-2010.
- ✶ 4) A copy of both responses to the RFP, including the best and final. I know you've agreed to this and I appreciate it. ✶
- 5) A scheduled meeting with all the Commissioners and the evaluation Committee to answer questions.

Thank you Dan,

Charlotte Rode
505-440-6635

EDUCATION IS THE MOST POWERFUL WEAPON YOU CAN USE TO CHANGE THE WORLD
~Nelson Mandela

EXHIBIT 3

Pat

From: Charlotte Rode [coachrode@comcast.net]
Sent: Tuesday, October 16, 2012 6:41 AM
To: pat@workspacedynamics.com
Subject: FW: Request for information

From: Charlotte Rode [mailto:coachrode@comcast.net]
Sent: Tuesday, November 29, 2011 6:36 AM
To: 'pat@workspacedynamics.com'
Subject: FW: Request for information

From: Charlotte Rode [mailto:coachrode@comcast.net]
Sent: Saturday, November 19, 2011 7:35 AM
To: 'Mourning, Dan, EXPO'; 'Benny Roybal'; 'Buster Goff'; 'Ruth Bitsui'; 'twister@smithcoconst.com'
Cc: 'Charles Brunt'; Lesley Lowe
Subject: RE: Request for information

Hello Dan,

I have yet to hear back from you and I appreciate that you are extremely busy. My concern is that the meeting is on Monday and we have been given no additional information since the 9th to study leaving us to rely on Mark Shoesmiths version of the facts. These documents are not easy reads and need a great deal of attention and research to fully comprehend. Showing up to a meeting to be spoon fed information is not productive and proceeding to vote is not responsible. I am again requesting that you site the section of the procurement code that prohibits the Commission from taking possession of this material so that we can dig in when our schedule allows – typically for me that is very, very early in the morning and late at night.

To educate me further on the process, can you explain to me why the Board of Finance is taking up so much of your time and is so heavily involved in a lease that we have not approved yet? I would like to have more information or some direction in how to research that myself.

I know that the Down's representative has contacted members of the Commission to meet individually before Monday's meeting to answer questions. To gain access to more information, would it also be appropriate for us to meet individually with a representative of Laguna Development. If so, that would be very helpful.

Thank you for your help.

Charlotte

From: Mourning, Dan, EXPO [mailto:Dan.Mourning@state.nm.us]
Sent: Thursday, November 17, 2011 5:13 PM
To: Charlotte Rode; Benny Roybal; Buster Goff; Hossie Sanchez; Larry Kennedy; Ruth Bitsui;

Pat

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To: Charlotte Rode; Benny Roybal; Buster Goff; Hossie Sanchez; Larry Kennedy; Ruth Bitsui;

twister@smithcoconst.com

Subject: RE: Request for information

Commissioner Rode,

Thank you for your message. Please understand that I have been extremely busy these last several days responding to requests from the State Board of Finance regarding the proposed lease for the Racetrack and Casino, and am just getting to your email at this moment.

I am also preparing a more complete comparison between the current and proposed lease agreements that I will share with all Commissioners as soon as it is completed. Financial documentation, obviously, will be included.

As you are aware, according to the State Procurement Process and the specific process we have had in place inviting Commissioners to come in to the office to view all documents they are entitled to view pertaining to the proposed lease, the invitation still stands: you are welcome to come by at your leisure to view such documents per the nondisclosure agreement you've already signed.

I will more fully address any of the rest of your concerns as soon as I am able. I will have more tomorrow.

Thank you for your continued patience.

Sincerely,
Dan

Thank you,

Dan Mourning

Deputy Manager

Office: 505.222.9739, Cell: 505.2383478

Dan.Mourning@state.nm.us

Expo New Mexico Home of the State Fair



Susana Martinez
Governor

From: Charlotte Rode [<mailto:coachrode@comcast.net>]

Sent: Thursday, November 17, 2011 2:39 PM

To: Mourning, Dan, EXPO; Benny Roybal; Buster Goff; Hossie Sanchez; Larry Kennedy; Ruth Bitsui;

twister@smithcoconst.com

Cc: Brunt, Charles

Subject: Request for information

Dan,

In light of the attached document that releases all information the offerers submitted to **the Commission** and your having possession of our confidentiality agreements, I would like to have forwarded to me and all State Fair Commissioners all documents related to the response to RFP by both parties, their best and final and the evaluation committees questions and findings. It is very

important that we have time to study them and vote according to knowledge and facts rather than influence and relationships.

We discussed at our last meeting that the 21st would be for information only and the vote would be on December 1st, however in your meeting notice submitted to the paper you included "taking action" as part of the agenda. All the more reason to get us as much information ahead of time as possible.

I would also like to reiterate my request for a cost analysis of the current contract. If it is impossible to determine, as you've told me, how are we to determine the fiscal impact on the State Fair of the proposed contract? Every piece of legislation that is proposed has a FIR attached. We should have the same.

Thank you for your help.

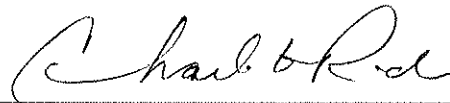
Charlotte Rode
505-440-6635

EDUCATION IS THE MOST POWERFUL WEAPON YOU CAN USE TO CHANGE THE WORLD
~Nelson Mandela

VERIFICATION

STATE OF NEW MEXICO
COUNTY OF BERNALILLIO

Charlotte Rode, being first duly sworn, says she is the Plaintiff in this action, has read the foregoing Verified Complaint and knows the contents thereof, and the statements contained therein are true to the best of her knowledge and belief. As to those allegations of which she does not have personal knowledge, she relies on her counsel and for that reason believes them to be true.

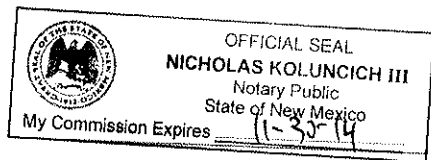


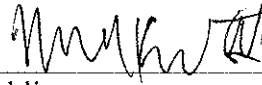
Charlotte Rode

STATE OF NEW MEXICO
COUNTY OF BERNALILLIO

Signed and sworn to before me on January 14, 2013 by Charlotte Rode.

(Seal)





Notary Public

My commission expires:

11-30-14